IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TEXARKANA DIVISION

CHARLES RAY POLK   §

VS.   §   CIVIL ACTION NO. 5:07cv14

PAUL A. KASTNER   §

MEMORANDUM OPINION AND ORDER

Petitioner Charles Ray Polk, an inmate at the Federal Correctional Institution in Texarkana, Texas, brought this independent action for a petition for writ of habeas corpus.

The action was previously dismissed based on petitioner's failure to meet the requirements for either an independent action in equity or for a petition for writ of habeas corpus. Petitioner has filed a motion for relief from judgment (docket entry no. 22). This memorandum opinion and order considers such motion.

Analysis

Rule 60(b), FED. R. CIV. P. provides in pertinent part:

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud ..., misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from operation of the judgment.

After carefully considering petitioner's motion, the court has determined that reconsideration of the court's final judgment is not warranted. As previously determined, petitioner has met the requirements neither for an independent action in equity nor for a petition for writ of habeas corpus. Accordingly, petitioner's motion should be denied. It is therefore,

ORDERED that petitioner's motion for relief from judgment is **DENIED**.

SIGNED this 11th day of August, 2008.

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DAVID FOLSOM
UNITED STATES DISTRICT JUDGE